

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

GERALD W. CALVERT)	
Claimant)	
VS.)	
)	Docket No. 176,835
UEC EQUIPMENT COMPANY)	
Respondent)	
AND)	
)	
ST. PAUL FIRE & MARINE INSURANCE CO.)	
Insurance Carrier)	
AND)	
)	
KANSAS WORKERS COMPENSATION FUND)	

ORDER

The application of claimant for review by the Workers Compensation Appeals Board of the Award of Assistant Director Brad E. Avery dated July 17, 1997, came on for consideration.

APPEARANCES

Claimant appeared by and through his attorney, Dennis L. Horner of Kansas City, Kansas. Respondent and its insurance carrier appeared by and through their attorney, Daniel P. Hanson of Overland Park, Kansas. The Kansas Workers Compensation Fund appeared by its attorney, W. Fredrick Zimmerman of Kansas City, Kansas. There were no other appearances.

RECORD AND STIPULATIONS

The record and stipulations as specifically set forth in the Award of the Assistant Director are herein adopted by the Appeals Board.

ISSUES

- (1) The application of the Kansas Workers Compensation Act.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having reviewed the whole evidentiary record filed herein, including the stipulations of the parties, the Appeals Board makes the following findings of fact and conclusions of law:

The Appeals Board finds that the Award of the Assistant Director sets out findings of fact and conclusions of law in some detail and it is not necessary to repeat those herein. The findings and conclusions enumerated in the Award of the Assistant Director are both accurate and appropriate and the Appeals Board adopts same as its own findings and conclusions as if specifically set forth herein.

Claimant alleges that while he suffered accidental injury on January 9, 1993, at his home in Missouri, his principal place of employment is in Kansas for purposes of invoking the Kansas Workers Compensation Act. However, in this case claimant's base of operation was in the State of Missouri, claimant's residence was in the State of Missouri, he was paid in the State of Missouri, he received his instructions from his employer at his home in the State of Missouri, the injury in question occurred at his home in Missouri, and the contract of employment between claimant and respondent was entered into in Texas. While it is acknowledged that some of claimant's travel occurred in the State of Kansas it is also noted that a portion of claimant's work duties were performed in Missouri and in Arkansas.

As such, the Appeals Board does not find the claimant's principal place of business is within the State of Kansas. Therefore, the Appeals Board finds that the claimant has failed to establish jurisdiction under the Kansas Workers Compensation Act for this injury and the Award of the Assistant Director denying jurisdiction over this matter is affirmed.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Award entered by Assistant Director Brad E. Avery dated July 17, 1997, should be, and is hereby, affirmed in all respects and claimant is denied an award in this matter.

IT IS SO ORDERED.

Dated this ____ day of October 1997.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Dennis L. Horner, Kansas City, KS
Daniel P. Hanson, Overland Park, KS
W. Fredrick Zimmerman, Kansas City, KS
Brad E. Avery, Assistant Director
Philip S. Harness, Director